

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION
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6 UNITED STATES OF AMERICA . 1:12-CR-435
7 VS. . **HOUSTON, TEXAS**
8 TOMAS YARRINGTON RUVALCABA . **MARCH 15, 2023**
9 DEFENDANT. . 2:00 P.M.
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12 TRANSCRIPT OF SENTENCING
13 BEFORE THE HONORABLE ROLANDO OLVERA
14 UNITED STATES DISTRICT JUDGE
15

16 **APPEARANCES**
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19 FOR THE GOVERNMENT:

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Proceedings recorded by mechanical stenography. Transcript
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PROCEEDINGS

(Official court interpreter translating)

THE COURT: Let's go on the record with respect to United States of America versus Tomas Yarrington Ruvalcaba.

MS. BETANCOURT: Good afternoon, Your Honor. Karen Betancourt and Jon Muschenheim for the government. We're ready.

MR. FLOOD: Good afternoon, Your Honor. Chris Flood on behalf of the defendant, Mr. Ruvalcaba.

THE COURT: Good afternoon, Mr. Flood.

Let's swear in the defendant, please.

(Defendant sworn)

THE COURT: Please say your full correct legal name, sir.

THE DEFENDANT: Tomas Jesus Yarrington Ruvalcaba.

THE COURT: Thank you, sir. You are before the Court for sentencing. The Court has the PSR.

Mr. Flood, any objections to the PSR that have not already been ruled upon?

MR. FLOOD: No, Your Honor.

THE COURT: The Court adopts the PSR, subject to its rulings.

Ms. Betancourt, please proceed with the government's report.

MS. BETANCOURT: Your Honor, this is a plea agreement

1 with a plea to Count Three of conspiracy to money laundering.

2 We're going to start by agreement with a base
3 level of eight, plus 18, for a relevant conduct loss of between
4 3.5 to 9.5 million. Added to that is the two-point enhancement
5 for the 1956 charge, a two-point enhancement for the
6 sophisticated method of money laundering and a four-point
7 enhancement for role. That gets us to an offense level of 34.
8 At this time, we move for a third acceptance point.

9 THE COURT: Granted.

10 MS. BETANCOURT: And that gets us to an offense level
11 of 31, criminal history category of 1.

12 That finding, Your Honor, of 31/1 is consistent
13 with the Court's order in 196 resolving all of the objections
14 of which the Court, after reviewing the defendant's
15 objections and the government's response, resolves the
16 objections and gets us to a 34/1. That would put the range of
17 punishment for the Court's consideration between 108 and 130
18 months.

19 Your Honor, just a couple things to note. Of
20 course, this day has been a long time coming, Your Honor. As
21 you know, Mr. Yarrington was the governor of Tamaulipas. He
22 was also a presidential candidate for the country of Mexico.
23 While he was in the governorship, of course, he admitted to
24 knowingly taking some bribe money. That bribe money then,
25 using those illegal funds, he laundered it by concealing it

1 here in the United States to support a very lavish lifestyle.
2 Those ill-gotten gains bought for him a condominium on
3 South Padre Island; for his family, another condominium in Port
4 Isabel, which we will discuss here in a moment. There were
5 lavish homes in Mission, additional second homes in Austin,
6 airplanes, luxury vehicles and a number of investment
7 properties in Brownsville, on South Padre Island, and in the
8 La Canterra area of San Antonio. And that is accounted for,
9 Your Honor, in the agreement that the government made that's
10 outlined in the factual summary.

11 So the government -- Mr. Yarrington -- we have
12 put forth to the Court what the government submits is a very
13 fair resolution to this matter, the plea to the money
14 laundering and the guideline range of 108 to 135 months. We're
15 asking the Court to sentence within the guideline range. We're
16 asking the Court to not consider any variance or any further
17 reductions; that the resolution for the conduct which
18 Mr. Yarrington committed, a fair sentence is between 108 and
19 135 months. And, Your Honor, we do have a plea agreement. And
20 the plea agreement is for the low end. So the government is
21 recommending to the Court a 108-month sentence.

22 THE COURT: Mr. Flood, your response.

23 MR. FLOOD: Thank you, Your Honor.

24 As you well know, we were trying to get a lower
25 recommendation. We made every effort to do that, and the 108

1 we don't agree -- disagree with. However, one of the things in
2 this case, a factor that's not been adequately taken into
3 consideration, I believe, is the fact that through no fault of
4 his own, Mr. Yarrington was brought into the country and placed
5 in solitary confinement because -- out of his -- for his own
6 safety, rather, not because he was dangerous to others. The
7 Marshal's Service designated him as being in danger; not
8 dangerous.

9 For that reason -- and you take into
10 consideration the fact that the pandemic occurred in the middle
11 of all of this, he has been in solitary confinement for five
12 years.

13 In my 35 years of practice, I have never seen
14 that type of situation, Your Honor, and so that's a fact and
15 circumstance present in this case. And so what we would ask is
16 that the Court take that into consideration. It can be done in
17 a number of different ways. One is, pretrial conditions of
18 confinement is not a factor taken into consideration by the
19 Sentencing Commission when formulating the guidelines, and so
20 you could take it into consideration as a departure.

21 If not, if you don't think it rises to a level of
22 departure, you could vary from the guidelines under 3550(a) as
23 being part of the circumstances in the case.

24 The final thing you could do, if you don't -- if
25 you decide neither of those serve the purpose, you could award

1 additional credit.

2 Now, most of the time, you hear people come in
3 and say, Well, I was in solitary confinement, we are asking for
4 two-for-one credit. That's not what we are asking for. We are
5 actually asking for less. And I think taking into
6 consideration the fact that it's kind of involuntary protective
7 custody, that the Marshal Service is the one that kind of
8 created that problem, we are asking for a half-day credit for
9 every day that he's been in solitary confinement.

10 So I think the parties agree that he
11 has 71-months credit when taking into consideration all the
12 time in official custody.

13 MS. BETANCOURT: Judge, this is the way that I am
14 going to say it, because this is the way the Bureau of Prisons
15 calculates it, but we are going to agree that he should receive
16 credit for time served beginning April 9 of 2017.

17 So, yes, Mr. Flood is right. It is close to six
18 years, but for the Court's calculations, he has been in custody
19 since his arrest in Italy on the Interpol notice on April 9 of
20 2017.

21 MR. FLOOD: So what I'm going to suggest is this, Your
22 Honor, if you take half of the 60 months he's been in
23 protective custody, then 30 months would be either taken off
24 the 108 recommendation by the government -- that's what we are
25 asking -- or an additional 30 months be added to his credit.

1 Putting numbers to that argument, Your Honor,
2 that would make a sentence -- we're asking for, I guess, a
3 sentence of 78 months because it takes into consideration one
4 factor that does exist in this case and exists in a way that is
5 much more egregious, let's say, than any other case I have ever
6 seen.

7 So, we don't disagree with the 108, based on the
8 facts and circumstances of the case and everything, but we're
9 asking for a reduction to 78 months based on that
10 representation, Your Honor.

11 MS. BETANCOURT: Judge, I think probation is going to
12 feel more comfortable if I put on the record that you have
13 sustained the government filing a response agreeing that the
14 funds were not related to drugs, and that negates the six-level
15 enhancement in the PSR and that the funds were not as part of
16 an abuse of trust situation and that negates the two-level
17 enhancement. The numbers are the same. It's just that putting
18 that on the record, I guess, clarifies the 31/1 offense level
19 and criminal history.

20 THE COURT: Thank you, Ms. Betancourt.

21 Mr. Flood, anything else?

22 MR. FLOOD: Nothing, Your Honor.

23 THE COURT: Mr. Yarrington, it is your right. Would
24 you like to make a statement to the Court on your own behalf?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Go ahead.

2 THE DEFENDANT: By your leave, Your Honor, it's been
3 six years since I have lived in custody. It has been a
4 difficult six years. Hard time. Very hard. Time of
5 isolation. Time of silence. Time of solitude. But also time
6 for reflection. Time for repentance. Time for spiritual
7 growth. Time to reunite with God and to seek his forgiveness.

8 The man who appears here before you, Your Honor,
9 is not the same man who set foot in the prison for the first
10 time six years ago. I have changed, and I have changed for the
11 better. Today I am closer to becoming the man God wills me to
12 become.

13 I apologize to you, the American government, the
14 Mexican people and my family. I apologize for my misconduct.

15 Thank you, Your Honor.

16 THE COURT: Thank you, sir.

17 Before I address the defendant, I would note for
18 the record that I have executed an order of forfeiture at
19 sentencing that was delivered to the Court. That has been
20 executed effective today.

21 Are there any other miscellaneous orders that
22 need to be addressed?

23 MS. BETANCOURT: As part of that, Judge, will you then
24 order that the criminal judgment contain the final forfeiture
25 for the Windward property in Port Isabel?

1 THE COURT: So ordered.

2 MS. BETANCOURT: Thank you, Judge.

3 THE COURT: Anything else?

4 MS. BETANCOURT: Not at this time, Your Honor.

5 THE COURT: Mr. Yarrington, before I sentence you, I
6 will state into the record the following: This is a complex
7 case with distinct issues. Any elected official who violates
8 their oath to the Constitution threatens and weakens their
9 respective democracy and also promotes criminal and/or
10 authoritarian agendas. But, most importantly, that breach of
11 trust may directly or indirectly endanger law-abiding citizens.

12 Based upon the seriousness of these offenses,
13 your request for a variance is denied; however, sir, you are
14 fortunate that this case is limited in scope exclusively to
15 money laundering.

16 In addition, the Court knows about your
17 significant cooperation with the government and the resulting
18 plea agreement between the parties.

19 In conclusion, the Court will abide by the terms
20 of the plea agreement. You are hereby sentenced to 108 months
21 and three years of supervised release.

22 Please be patient as I read those terms into the
23 record.

24 If not deported within 72 hours of release from
25 the custody of the Bureau of Prisons, you must report in person

1 to the probation office in the district to which you are
2 released.

3 While on supervised release, you shall not commit
4 another federal, state or local crime. You must not illegally
5 possess a controlled substance and refrain from unlawful use of
6 controlled substances. You must not own, possess or have
7 access to a firearm, ammunition, destructive device or any
8 other dangerous weapon.

9 You are not to reenter the United States
10 illegally. If you reenter the United States, you must report
11 to the nearest probation office within 72 hours after return.

12 You must cooperate in the collection of a DNA
13 sample as authorized by law.

14 The Court finds that you do not have the ability
15 to pay a fine. The Court will waive a fine in this case.

16 The \$100 special assessment is --

17 MS. BETANCOURT: Your Honor, the government will move
18 to remit the \$100 special assessment and dismiss the remaining
19 counts pending against Mr. Yarrington.

20 THE COURT: In closing, Mr. Yarrington, I appreciate
21 your comments to the Court, and I would ask that you give me
22 your word of promise that you will not commit any crimes ever
23 again. The promise is not necessary to me but to yourself and
24 to the family you mentioned. Is that correct, sir?

25 THE DEFENDANT: That's right. I promise.

1 THE COURT: Good luck to you, sir.

2 MR. FLOOD: Your Honor, one last thing.

3 May we ask for a recommendation to the FCI
4 Bastrop, Your Honor, if he qualifies?

5 THE COURT: The recommendation is granted.

6 Anything else in terms of placement?

7 MR. FLOOD: I have nothing further other than I guess
8 the calculation of the back time.

9 MS. BETANCOURT: Again, Judge, the Bureau of Prisons
10 calculates in a way that I can't -- Judge already knows this.

11 THE COURT: The Bureau of Prisons has their own
12 calculations, and he will receive credit for the time served
13 but based on their calculations.

14 MS. BETANCOURT: Starting though -- we all agree the
15 starting date -- if the Court includes this in their judgment,
16 or however that gets resolved, the starting date is April 9,
17 2017.

18 THE COURT: So noted.

19 MR. FLOOD: That's correct, Your Honor. Thank you
20 again.

21 THE COURT: That is judicially admitted by the Court.

22 Anything else?

23 MR. FLOOD: Nothing further, Your Honor.

24 MS. BETANCOURT: Nothing further from the government,
25 Your Honor.

1 (Court adjourned at 2:11 p.m.)

2 * * * *

3 I certify that the foregoing is a correct transcript from
4 the record of proceedings in the above-entitled cause.

5
6 Date: July 24, 2023

7 /s/ Mayra Malone

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9 Mayra Malone, CSR, RMR, CRR
10 Official Court Reporter
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